

ADVISORY OPINION NO. 99-17

Issued On September 2, 1999 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A County Solid Waste Authority employee asks whether he could serve on the Authority's Board after his retirement from his current job with the Authority.

FACTS RELIED UPON BY THE COMMISSION

The requester intends to retire from his job with the Solid Waste Authority, but would like to continue his involvement with its work. Upon retirement he will receive a pension, administered by the State's Consolidated Public Retirement Board, based on his long service with the Authority. He wants to establish whether his retirement benefits will prevent him from being considered for service on the Solid Waste Authority's Board.

The Consolidated Public Retirement Board has advised the Commission that the requester's pension benefits are established at the time of his retirement and he would have no ability, as a member of the Authority's Board, to influence those benefits.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

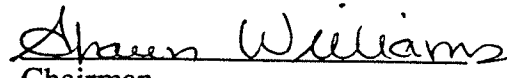
West Virginia Code 6B-2-5(d)(1) provides in pertinent part that...no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control...

West Virginia Code Section 61-10-15 states in pertinent part that...It shall be unlawful for any member of any county or district board...to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing any supplies in the contract for, or the awarding or letting of, which as such member he may have any voice, influence or control...

ADVISORY OPINION

Both the Ethics Act and WV Code 61-10-15 prohibit public servants from having a personal financial interest in a public contract that their public position give them the power influence or control. No other provision of the Ethics Act would prevent the requester from serving on the Authority's Board.

Based on information supplied by the Consolidated Retirement Board, it appears that the requester's membership on the Authority's Board would give him no opportunity to influence the nature or extent of benefits he receives as a retired Authority employee. The Commission therefore finds that it would not be a violation of the Ethics Act, or of WV Code 61-10-15 for the requester to serve on the Board of the Solid Waste Authority from which he retired.


Chairman